

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90554; File No. SR-ICEEU-2020-015]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Delivery Procedures

December 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 25, 2020, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to amend Part Q, Part R and Part B of its Delivery Procedures (the “Delivery Procedures”) in connection to make clarifications and updates with respect to certain delivery specifications.<sup>5</sup>

#### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

#### (A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### (a) Purpose

ICE Clear Europe is proposing to amend Part Q, Part R and Part B of its Delivery Procedures.

The Part Q delivery specifications, which apply to the ICE Futures Europe White Sugar Futures Contracts, would be amended to provide that the contract relates to sugar of any origin of the crop or production current on the first day of the delivery period (instead of referencing the time of delivery). The clarification would facilitate identification of sugar eligible for delivery under the contract. Further, the related delivery timetable would be amended to provide that the document notice day (*i.e.*, the day on which delivery document notifications are made via Guardian (or a successor system)) would be 20 days after the date of issue of the bill of lading (whether the date of issue is the same as or later than the date of completion of loading of the vessel), rather than 20 days after the vessel has completed loading.

The Part R delivery specifications, for ICE Futures Europe Wheat Futures Contracts, would be amended to provide that wheat shall be delivered of an EU or UK origin, rather than an EC origin, to account for the UK leaving the EU.

The Part B delivery specifications, for ICE Futures Europe Gasoil Futures Contracts, would be amended to provide that if the Buyer chooses the coaster delivery method, the maximum size would be 15,000 DWT instead of 10,000 DWT.

##### (b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed amendments are designed to clarify and update certain delivery specifications relating to sugar, wheat and gasoil futures contracts, consistent with the ICE Futures Europe Rules. These changes are intended to facilitate continued clearing and physical settlement of the contracts through enhancements to the delivery

requirements and delivery process. ICE Clear Europe is not otherwise proposing to change the contractual or delivery terms for these contracts, or its financial resources, risk management, systems and operational arrangements for these contracts (and ICE Clear Europe believes such terms and arrangements are sufficient to continue support continued clearing of these contracts). As a result, in ICE Clear Europe’s view, the amendments would be consistent with the prompt and accurate clearance and settlement of the ICE Futures Europe White Sugar Futures Contracts, ICE Futures Europe Wheat Futures Contracts and ICE Futures Europe Gasoil Futures Contracts, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>7</sup> (In ICE Clear Europe’s view, the amendments would not affect the safeguarding of funds or securities in the custody or control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).<sup>8</sup>)

In addition, Rule 17Ad-22(e)(10)<sup>9</sup> requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries. As discussed above, the amendments would clarify and update the delivery specifications relating to sugar, wheat and gasoil futures contracts, consistent with the ICE Futures Europe Rules. The amendments would thus clarify and update the role and responsibilities of the Clearing House and Clearing Members in the physical delivery process. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).<sup>10</sup>

#### (B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The changes are being proposed in order to update the Delivery Procedures in connection with the UK leaving the EU and to provide general drafting clarifications and updates to delivery specifications. The

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>5</sup> Capitalized terms used but not defined herein have the meaning specified in the ICE Clear Europe Clearing Rules (the “Rules”).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad-22(e)(10).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(10).

amendments would not otherwise affect the terms of the contracts. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and paragraph (f) of Rule 19b-4<sup>12</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2020-015 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICEEU-2020-015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/notices/Notices.shtml?regulatoryFilings>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2020-015 and should be submitted on or before December 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-90555; File No. SR-MEMX-2020-14]**

**Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule**

December 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 30, 2020, MEMX LLC ("MEMX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is filing with the Commission a proposed rule change to amend the fee schedule applicable to Members<sup>3</sup> pursuant to Exchange Rules 15.1(a) and (c) in order to (i) provide pricing for Retail Orders<sup>4</sup> that add displayed liquidity and are executed on the Exchange; and (ii) provide pricing for transactions in securities priced below \$1.00 per share that are executed on the Exchange. The text of the proposed rule change is provided in Exhibit 5.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The Exchange proposes to modify its fee schedule to adopt the fees and rebates described herein applicable to Retail Orders that add displayed liquidity to the Exchange ("Added

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Rule 1.5(p).

<sup>4</sup> A "Retail Order" means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.21(a).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).